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Forty-ninth session
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Note verbale dated 22 February 1993 from the Permanent Mission of Kuwait to the United Nations Office at Geneva addressed to the Centre for Human Rights

The Permanent Mission of the State of Kuwait to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and, with reference to the note from the Permanent Mission of Iraq at Geneva, reproduced in document E/CN.4/1993/79 of 20 January 1993, concerning Kuwaitis and nationals of other countries who are imprisoned, detained or missing in Iraq, wishes to state as follows:

1. In his letter to the Secretary-General of the United Nations, the representative of the Iraqi regime quotes a news agency, as usual in a selective and superficial manner, with a view to distorting the facts concerning Kuwaitis and persons of other nationalities who are imprisoned, detained or missing in Iraq, in so far as he refers to false information attributed to a committee of the Kuwaiti National Assembly, namely the "Committee on Hostages, Missing Persons and the Welfare of Families of Martyrs".

2. The Committee's report did not contain any of the information incorporated in the note from the representative of the Iraqi regime. On the contrary, the report called for the formation of a team to secure the release of the prisoners, similar to the inspection team that is searching for weapons of mass destruction. It also called for the economic sanctions to be linked to the release of the prisoners and the provision of information concerning their fate.

3. The Committee's concern arises from the humanitarian aspect of the matter, which the Iraqi representative fails to understand. The alleged information concerning prisoners in Kuwait whose names are included in the list of missing persons is a figment of his imagination, since the report of the "Committee on Hostages, Missing Persons and the Welfare of Families of Martyrs" contains no such information. Furthermore, the report contains absolutely no information concerning children detained at deportation centres.

4. The representative of the Iraqi regime lacked evidence to support his allegations and therefore once again raised the question of the multiple lists of prisoners and missing persons, the reasons for which have already been explained by Kuwait in earlier notes addressed to the Secretary-General. In this connection, we wish to reaffirm that Iraq's invasion and occupation of Kuwait caused deliberate and substantial damage in all spheres of life, as indicated in United Nations reports, and also led to the displacement of more than two thirds of Kuwait's population, who were not fully able to return until the end of 1991. The infrastructural damage resulting from the Iraqi invasion of Kuwait also made it very difficult to check and investigate information concerning prisoners, detainees and missing persons. In addition, changes in the lists of prisoners were obviously made whenever it was necessary to delete the names of persons who had been released, particularly in the first months following the expulsion of the Iraqi occupation forces and the liberation of Kuwait.

5. The bodies concerned with prisoners and missing persons are constantly checking the approved lists, maintaining regular contacts with the families and relatives of prisoners, detainees and missing persons and modifying the lists in the light of the results of those contacts. There is no inconsistency in these lists, since each list submitted to the International Committee of the Red Cross carries a date subsequent to the date of the previous list and contains a smaller number of names of prisoners, detainees and missing persons. Kuwait will continue the process of checking these lists.

6. The multiple Kuwaiti lists are an indication of Kuwait's credibility since, if it had intended to engage in political deception as the Iraqi regime claims, Kuwait would have retained only one list and would not have taken the trouble to check and update several lists.

7. The Kuwaiti authorities recently provided the International Red Cross with individual files on prisoners and missing persons supported by documents left behind by the Iraqi occupation authorities and showing the place, date and circumstances of their detention. These files refute Iraq's allegations to the effect that it is not holding any prisoners or missing persons, since they contain detailed information on each prisoner and missing person and reveal details, in the handwriting of the invading forces, which the Iraqi regime would prefer to conceal.

The question of prisoners, detainees and missing persons is not a matter of lists and numbers; it is a humanitarian and moral issue, which explains why the Iraqi regime is unable to understand it. This latest note from Iraq is merely a further attempt to mislead with a view to postponing the fulfilment of its obligations under the terms of the Security Council resolutions and to

refrain from complying with the Geneva Conventions concerning prisoners. In fact, Iraq is still refusing to permit the International Committee of the Red Cross to visit all the prisons and places of detention without prior notice. Iraq is also still refusing to cooperate with the Red Cross by providing it with the facilities needed to enable it to gather information in order to determine the whereabouts of the missing persons.

Following the Iraqi authorities' receipt of these individual lists which provide irrefutable proof that they are holding prisoners and missing persons, those authorities are called upon to give tangible effect to their claim to be cooperating with a view to determining the fate of those prisoners and detainees.

The Permanent Mission of the State of Kuwait at Geneva would be grateful if the Centre for Human Rights would circulate this note as an official document of the forty-ninth session of the Commission on Human Rights.

Accept, Sir, the assurances of our highest consideration.

(Signed) Mohammad AL-SALLAL

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COMMISSION ON HUMAN RIGHTS
Forty-ninth session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Letter dated 24 February 1993 from the Permanent Representative of Turkey to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to enclose herewith a letter dated 22 February 1993, addressed to Your Excellency by H.E. Kenan ATAKOL, Minister of Foreign Affairs and Defence of the Turkish Republic of Northern Cyprus, with regard to the question of missing persons in Cyprus.

I should be grateful if my letter and its enclosure were circulated as a document of the Commission on Human Rights under agenda item 10.

(Signed): Gündüz AKTAN
Permanent Representative

GE.93-11287 (E)

I have the honour to refer to the statement made by the Greek Cypriot representative under agenda item 10 on the question of missing persons in Cyprus and to respond once again, as I did last year, to his unfounded allegations concerning the subject.

In my response this year I shall refrain from repeating all the detailed information and references to official documents contained in my letters addressed and conveyed to your predecessors through the Permanent Mission of Turkey in Geneva, the last one being that transmitted to you by Ambassador Gündüz Aktan under cover of his letter dated 24 February 1992 (E/CN.4/1992/78).

It will be recalled that The Committee on Missing Persons in Cyprus (CMP) which is dealing with the problem, was set up in April 1981, and, after taking some three years to overcome procedural difficulties, actively began to deal with the substance of the problem in May 1984. Since then it has held 309 meetings during 48 working sessions spending an estimated 1,000 Committee hours, in addition to far more time spent on investigations and reporting, but has not so far closed even a single case.

The reason is the Greek Cypriot side's continued belief that the resolution of the issue will deprive it of what it considers to be an effective weapon of political propaganda in the international arena, where the Turkish Cypriot side is unjustly not represented, and where the problem can be taken out of its proper context namely that it is the result of intercommunal conflict in Cyprus between 1963-74 affecting both communities, and mispresented as one caused by Turkey's lawful intervention in Cyprus in July 1974 which, be it noted, saved thousands of Greek Cypriots as well as Turkish Cypriots from being massacred, as thousands of Greek Cypriots were in fact massacred by the Greek Junta Coupists and their Greek Cypriot collaborators headed by one-time murderer Sampson.

This negative attitude of the Greek Cypriot side appears to have paralysed the CMP as is apparent from its meaninglessly brief monthly press releases which simply read, to take the latest one as an example, as follows:

> "The Committee on Missing Persons in Cyprus concluded its 68th working session at the Ledra Palace on Thursday, 4 February 1993.
>
> The next session is scheduled to commence in early March".

Since 1984 the Committee has managed to come out with more meaningful press communiques on just two occasions only namely 11 April 1990 and 10 April 1992.

These two press releases, which are attached as appendix I and II, could be issued only by consensus of the three Committee members, including the Greek Cypriot member, and, hence, their contents must be taken to represent the minimum that could be disclosed about the facts and problems involved.

It will be seen that the picture that can be gained from the said two official press releases does not match at all the one-sided, mostly illusory picture that is painted by the Greek Cypriot representative at the

Human Rights Commission whenever the opportunity presents itself for him to speak, in the full knowledge that his counterpart namely the Turkish Cypriot representative is not also present to reply.

No lesser a person than Mr. Glafcos Clerides who has just been elected as President of the Greek Cypriots, has defined the problem as follows:

> "In the meantime several people, both Greek Cypriots and Turkish Cypriots, who, for one reason or another, found themselves in areas controlled by forces belonging to the other community, were killed in cold blood. Both the Greek Cypriot and Turkish Cypriot leaderships proved unable to prevent the extremist elements of their communities from committing such shameful barbaric and cowardly criminal acts. As a result those who lost their lives, were simply listed as missing persons".
>
> (Cyprus: My Deposition, Vol. I, p. 232)

New evidence continues to come to light which throws more light on the true nature of the Greek Cypriot missing persons.

One such evidence came to light in July 1991 in the form of a book written by a former Greek Cypriot National Guard Officer namely Kostas Chr. Tzorgi in which names of dead officers, as confirmed by National Guard Headquarters, appear which are also included in the so-called "List of 1,619 Greek Cypriot missing persons."

The most recent evidence to come to light was that which appeared in the English daily "Cyprus Mail" on 22 November 1992 and which is reproduced below.

> "Athienou yesterday lost one of its outstanding citizens, Antonis Steliou Stylianou (62) who died of a heart attack.
>
> During the 1974 coup, Stylianou was forced to bury almost 300 victims of the conflict on his own at the Lakatamia cemetery by Greek officers.
>
> At the time, his home was next to the Lakatamia cemetery in Nicosia. In the years to come, he was to vividly recite experiences from the mass burials, where bodies were brought in truckloads, and he was forced to bury a woman three months pregnant who was shot with an automatic rifle.
>
> Some months after the coup, he assisted in the exhumation of the bodies for identification by relatives.
>
> He died at 3.30 a.m. yesterday. His funeral will be held on Monday afternoon."

Stylianou's was just one of several other mass graves resorted to during the Coup period before the Turkish Intervention.

What needs to be underlined is the fact that hundreds of people were literally dumped into all those mass graves without prior identification. And in the climatic conditions of Cyprus, bearing in mind also that in Cyprus no one carried identification tags, it is practically impossible to identify with certainty bodies that may be exhumed after several months. This is a fact confirmed also by forensic experts.

The following statement was made on 9 October 1984 by the former Third Member of the CMP, the late Mr. Claude Pilloud, a distinguished Swiss humanitarian lawyer, who unfortunately died unexpectedly about one month later on 10 November 1984.

> "I got involved in the task of investigation of missing persons in Cyprus in 1977. I saw how in 1975 representatives of the two communities came together on the issue and appointed an ad hoc committee for the purpose. At that time the incidents were fresh and it was generally believed that there might be missing persons who were alive. But eight years have passed since then. If there is any evidence it should be submitted to us (the Committee). If it is not, the issue must be taken up in accordance with the criteria I have mentioned. During all these years, I have never had submitted to me any information which would create the impression that any of the missing persons may be alive. I believe that any approach which would create the impression in the minds of the families concerned that their missing members may be alive would be inhuman. Presumption of death would, in my opinion, be a more humanitarian approach from the point of view of the families concerned. Of course, there might also be such cases which would remain in abeyance in the total absence of any evidence."

Mr. Pilloud's observations confirmed what Mr. Hoffman of the International Committee of the Red Cross, who assisted Mr. Denktas and Mr. Clerides in the ad hoc humanitarian Committee during 1975-76, had said on 5 March 1976, which is reproduced below.

> "We have done everything possible to trace all those missing. There is nothing further that we can do. But if both sides agree and ask our help, we are ready. For instance, disinterment and identification of remains is usually resorted to, under the Geneva Conventions, after every conflict. But in this case it is too late to undertake such a task especially because nobody carried identification tags in Cyprus. Therefore our mission in Cyprus has been completed."

The continued stagnation deliberately imposed on the Committee on Missing Persons was what presumably prompted the Secretary-General of the United Nations to make certain observations on the work of the Committee coupled with recommendations, in his report to the Security Council dated 31 May 1992.

The press release unilaterally issued by the Turkish Cypriot Member on 13 October 1992 (appendix 3) must be indicative of the relative responses of the two sides on the CMP to the United Nations Secretary-General's recommendations referred to above.

I would like to state also that, unlike the Greek Cypriot side, purely humanitarian considerations dictate our own attitude to the agony of the families of 803 missing Turkish Cypriot (all civilians, 29% women and children, compared to 62% military personnel with only 8% women and children on the Greek Cypriot side) who constantly press us to secure for them informative reports from the Committee which would "close" formally the tragedy that befell them, a tragedy which, for some of them, as quoted below from a 1963/64 report, was too horrendous to even contemplate.

> "One of (British Navy Commander) Packard's first tasks was to try to find out what had happened to the estimated 25 Turkish Cypriot hospital patients. Secret discussions took place with a Greek Cypriot Minister in the collapsed (1960-63) Government. After a brief investigation, he was able to confirm local rumours.
>
> It appeared that Greek Cypriot medical staff had slit the patients' throats as they lay in their beds. Their bodies were loaded on to a truck and driven to a farm north of the city where they were fed into mechanical choppers and ground into the earth".

These are, for sure, 25 of the 803 Turkish Cypriot missing persons but who are they?

In conclusion, Your Excellency, I would like to appeal to you, particularly on behalf of the Turkish Cypriot families anxiously awaiting in deep agony, to assist in persuading the Greek Cypriot side to give up its present political stance and cooperate with the Committee on Missing Persons in Cyprus in order that this tragic humanitarian issue affecting as it does both sides, may at last be resolved in accordance with the Committee's agreed Terms of References which are based on humanitarian principles.

(Signed) Dr. Kenan Atakol